

Message Text

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51

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FM AMEMBASSY KUALA LUMPUR

TO SECSTATE WASHDC 6677

INFO AMEMBASSY BANGKOK

AMEMBASSY JAKARTA

AMEMBASSY MANILA

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CINCPAC

C O N F I D E N T I A L KUALA LUMPUR 1638

CINCPAC FOR POLAD

E.O. 11652: GDS

TAGS: PINS, MY

SUBJECT: FAA SECTION 32 - POLITICAL PRISONERS

REF: A. STATE 68545

B. KUALA LUMPUR A-165, SEP 13, 1973

C. KUALA LUMPUR A-167, SEP 1, 1972

D. KUALA LUMPUR A-45, APR 8, 1974

1. SUMMARY: GOM HAS AUTHORITY UNDER LAW TO DETAIN INDIVIDUALS SUSPECTED OF PREJUDICIAL ACTIVITIES, INCLUDING COMMUNIST SUBVERSION, SEDITION, CONGENITAL CRIMINAL VIOLATIONS, AND BROADLY-DEFINED ACTS CONTRARY TO MAINTENANCE OF PUBLIC ORDER AND PREVENTION OF CRIME. ALL DETENTIONS, HOWEVER, ARE SUBJECT TO OPERATION OF LAW, I.E., CONFINEMENT ON ORDER OF PUBLIC MAGISTRATE, THERE IS APPEALS PROCEDURE, AND THERE IS PERIODIC REVIEW OF DETENTION CASES, ALTHOUGH AN INDIVIDUAL NEED NOT BE BROUGHT TO TRIAL. LACKING DETAILED STATISTICS, THERE ARE ABOUT 2000 PEOPLE UNDER DETENTION, OVERWHELMING MAJORITY OF WHOM ARE EX-TERRORISTS AND SURRENDEREES FROM COMMUNIST INSURGENCY IN SARAWAK. EMBASSY BELIEVES THAT GOM IS NOT REPEAT NOT IN VIOLATION OF SENSE OF FAA
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SECTION 32 IN THAT INTERNMENT OR IMPRISONMENT IS NOT ARBITRARY

BUT BY OPERATION OF LAW. END SUMMARY.

2. SECURITY STATUTES OF MALAYSIA, LARGELY PATTERNED ON BRITISH LAWS, ARE WELL DEVELOPED AND GIVE GOM BROAD AUTHORITY TO DETAIN INDIVIDUALS SUSPECTED TO PREJUDICIAL ACTIVITIES PENDING TRIAL (AS IN CASE OF MOST CRIMINAL OFFENSES), FOR SPECIFIED PERIODS OF TIME AT DISCRETION OF GOVERNMENT, OR INDEFINITELY DEPENDING ON ASSESSMENT OF INDIVIDUAL'S STATUS AS PUBLIC MENACE. PRINCIPAL LAWS EMOBDDYING DETENTION AUTHORITY ARE INTERNAL SECURITY ACT OF 1960 (REVISED 1972); OFFICIAL SECRETS ACT, 1972; PREVENTION OF CRIME ORDINANCE, 1959; AND EMERGENCY (PUBLIC ORDER AND PREVENTION OF CRIME) ORDINANCE, 1969. THESE STATUTES PROVIDE FOR DETENTION ON VARIETY OF POLITICAL AND CRIMINAL GROUNDS, INCLUDING COMMUNIST SUBVERSION, SEDITION, VIOLATION OF "PUBLIC ORDER" (WHICH, AS BROADLY DEFINED, CAN RANGE FROM PUBLIC NUISANCE TO SECURITY THREAT), AND CONGENITAL CRIMINAL ACTS. IN EACH CASE, DETENTION ORDER MUST BE ISSUED BY A PUBLIC MAGISTRATE, CITING APPLICABLE PROVISION OF LAW; CASES OF DETAINEES MUST BE REVIEWED AT LEAST EVERY TWO YEARS AND GOVERNMENT MUST CERTIFY THAT DETENTION, IF CONTINUED, IS NECESSARY IN PUBLIC INTEREST; AND DETAINEES HAVE RIGHT TO APPEAL IF THEY ARE NOT BROUGHT TO TRIAL.

3. NUMBER OF POLITICAL DETAINEES HELD BY GOM IS APPROXIMATELY 2000 (SEE REFS B AND C FOR 1972 FIGURES), AT LEAST 1500 OF WHOM ARE EX-TERRORISTS AND SURRENDEREES FROM COMMUNIST INSURGENCY IN SARAWAK. MANY OF THOSE HELD IN SARAWAK ARE UNDERGOING "REHABILITATION" PRIOR TO RETURN TO CIVILIAN LIFE. A SUBSTANTIAL NUMBER OF DETAINEES ARE RELEASED BY GOVT EACH YEAR, BUT THEY MAY BE SUBJECT TO CONTINUING RESTRICTIONS, E.G., PROSCRIPTION OF POLITICAL ACTIVITY, REPORT TO POLICE PERIODICALLY, ETC.

4. THERE IS NO REPEAT NO ARBITRARY DETENTION IN MALAYSIA, SINCE DETENTION IS SUBJECT TO OPERATION OF LAW, ALTHOUGH IN SOME CASES PRECISE CHARGES OR TRIABLE OFFENSE MAY NOT BE SPECIFIED BY GOVT. ALSO, SOME DETAINEES HAVE BEEN HELD 10 YEARS OR MORE WITHOUT TRIAL. ON OCCASION, CASES OF DETAINEES HAVE BEEN BROUGHT TO ATTENTION OF INTL GROUPS SUCH AS AMNESTY INTERNATIONAL (REF B) BUT, THUS FAR, MALAYSIAN SITUATION HAS NOT BEEN SUBJECT TO SCRUTINY BY THESE ORGANIZATIONS. THERE IS, MOREOVER, NO INDICATION THAT UN IN ANY WAY CONSIDERS MALAYSIA TO BE IN VIOLATION OF CONFIDENTIAL

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HUMAN RIGHTS DECLARATION.

5. BECAUSE THERE IS NO "ARBITRARY" DETENTION OF POLITICAL PRISONERS IN CONTEST OF FAA SECTION 32 AS INTERPRETED IN REF A, SMALL US ASSISTANCE PROGRAMS IN MALAYSIA WOULD NOT BE AFFECTED. FOR RUN-DOWN ON MINIMAL USG ASSISTANCE PROGRAMS HERE, SEE REF D (FY 75 ANNUAL ASESMENT IN LIEU OF PARA) AND FORTHCOMING PART III ON ESTIMATE OF RESOURCES NEEDED (TO BE POUCHED APRIL 15

OR 18). FURTHERMORE, SINCE DETENTION OF POLITICAL PRISONERS IN
MALAYSIA DEPENDS ON OPERATION OF LAWS APPROVED BY DEMOCRATICALLY-
ELECTED PARLIAMENT, THERE IS NO CAUSE FOR EMBASSY OR USG TO MAKE
REPRESENTATIONS TO GOM REGARDING ITS LEGAL PROCESSES.
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